IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 597 OF 2003

Shri S. K. Manjrekar,
Ex-Accountant of Shree
Damodar College of Commerce
& Economics, Margao-Goa,
resident of Margao-Goa. ... Petitioner

versus

1. Goa University, through
its Registrar, having
office at Taleigao
Plateau, Bambolim-Goa.

2. State of Goa, through
its Chief Secretary,
having office at
Secretariat, Panaji-Goa.

3. The Director of Higher
Education, Government
of Goa, Panaji-Goa.

4. Shree Damodar College
of Commerce & Economics,
Margao-Goa. ... Respondents

Mr. M. S. Sonak, Advocate for the Petitioner.

Mrs. A. A. Agni, Advocate for Respondent No.1.

Mr. A. N. S. Nadkarni, Advocate General with Mr. H. D. Naik, Additional Government Advocate for Respondent Nos.2 and 3.

CORAM : S. A. BOBDE &
N. A. BRITTO, JJ.

DATE : 28TH JULY, 2004.

ORAL JUDGMENT(PER S.A.BOBDE,J.)

By this Writ Petition, the Petitioner who is a Member of the affiliated Non-Government Aided College affiliated to the Goa University seeks for a writ of mandamus directing the Respondent Nos.1 to 3 to award a pay scale of Rs.6500-10500 to the Petitioner w.e.f. 1st January, 1996, i.e. under the Vth Pay Commission. The Petitioner also seeks a direction that the order of pay fixation dated 31st March, 1998, be quashed to the extent it does not mention the Petitioner's pay scale of Rs.2000-3200(TBPS and corresponding revision of 6500-10500).

2. Mr. A. N. S. Nadkarni, learned Advocate General has raised a preliminary objection to the tenability of this Petition in view of the two decisions of the Supreme Court reported in (2003) 5 SCC 163 and (2003) 6 SCC 490.

3. This preliminary objection is pressed into service in view of the admitted fact that the Petitioner obtained V.R.S. on 1st June, 1999. Having done so, the Petitioner has now filed this Petition on 18th October, 2003, seeking a revision of pay to which he claims to be entitled while he was in service.

4. In the case of **A. K. Bindal and another** v. **Union of India and others** reported in (2003) 5 SCC 163 the Hon'ble Supreme Court repelled the argument that the Appellant was entitled to a pay revision in view of the fact that such pay revision was not accommodated in the emoluments eventually received by him at the time of finally giving effect to the Voluntary Retirement Scheme. The Hon'ble Supreme Court observed as follows:-

> "This shows that a considerable amount is to be paid to an employee ex gratia besides the terminal benefits in case he opts for voluntary retirement under the Scheme and his option is accepted. The amount is paid not for doing any work or rendering any service. It is paid in lieu of the employee himself leaving the services of the company or the industrial establishment and foregoing all his claims or rights in the same. It is a package deal of give and take. That is why in the business world it is known as "golden handshake". The main purpose of paying this amount is to bring about a complete cessation of the jural relationship between the employer and the employee. After the amount is paid and the employee ceases to be under the employment of the company or the undertaking, he leaves with all his rights and there is no question of his again agitating for any kind of his past rights with his erstwhile employer including making any claim with regard to enhancement of pay scale for an earlier period. If the employee is still permitted to raise a grievance regarding

> enhancement of pay scale from a retrospective date, even after he has opted for Voluntary Retirement Scheme and has accepted the amount paid to him, the whole purpose of introducing the Scheme would be totally frustrated".

5. Subsequently, in the case of **Officers & Supervisors of I.D.P.L.** v. **Chairman & M.D., I.D.P.L. and others** reported in (2003) 6 SCC 490 in a similar situation the Hon'ble Supreme Court obsewrved as follows:-

> "Since this Court has already decided the very issue in question and the petitioners have opted for VRS, nothing survives in this petition and the same is liable to be dismissed. The petitioners having applied for VRS, it is not open to them to contend that they are entitled to pay revision".

6. As a result, in view of the admitted fact that the Petitioner has taken VRS on 1st June, 1999, had approached the Court much thereafter. We are not inclined to consider any relief to the Petitioner since there has been a complete cessation of service and the Petitioner now seeks a pay revision as if he was in service.

7. Thus, without going to the question of delay,

we hereby dismiss the Petition. Rule is discharged without any order as to costs.

S. A. BOBDE,J.

N. A. BRITTO,J.

RD.